

ORDER NO. 1756

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Robert G. Taub, Vice Chairman;  
Mark Acton;  
Tony L. Hammond; and  
Nanci E. Langley

Notice of Market-Dominant  
Price Adjustment

Docket No. R2013-7

ORDER GRANTING MARKET DOMINANT  
PRICE ADJUSTMENT FOR INSURANCE

(Issued June 21, 2013)

I. OVERVIEW

On May 10, 2013, the Postal Service filed notice, pursuant to 39 U.S.C. § 3622 and 39 C.F.R. part 3010, proposing to include, at no additional charge, \$50 or \$100 of insurance coverage with eligible Priority Mail pieces.<sup>1</sup> The price adjustment is scheduled to take effect on July 28, 2013.

The Commission approves the proposal. The resulting price decrease yields a total unused pricing authority of 3.678 percent for the market dominant Special Services class. However, the Commission notes that price decreases to market dominant

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<sup>1</sup> United States Postal Service Notice of Market-Dominant Price Adjustment, May 10, 2013 (Notice).

products that are ancillary to both market dominant and competitive products raise unique issues that affect a number of Ancillary Services. Because the additional Ancillary Services are not before the Commission in this proceeding, the Commission may initiate a separate proceeding so that these issues may be considered in a systematic way.

## II. POSTAL SERVICE PROPOSAL

The Postal Service proposes to provide up to \$100 of automatic insurance coverage for no extra charge on all domestic Priority Mail pieces that bear an Intelligent Mail package barcode (IMpb) and for which the mailer pays Commercial Plus prices or uses a “Qualifying Payment Method.” Notice at 2-3. Qualifying Payment Methods are limited to ePostage, Electronic Verification System, Hardcopy Manifest, or an approved Manifest Mailing System. *Id.* at 3, n.2. The Postal Service proposes to provide up to \$50 of automatic insurance coverage for no extra charge on all other domestic Priority Mail pieces that bear an IMpb or other USPS retail tracking barcode.<sup>2</sup> *Id.* at 3. The Postal Service indicates that it considered offering \$100 of automatic insurance to all customers, but concluded that this approach “was infeasible due in part to the resulting increase in administrative costs.” *Id.*

The Postal Service presently charges Priority Mail users a fee of \$1.95 for insurance coverage up to \$50 and \$2.45 for insurance coverage between \$50.01 and \$100. Its principal domestic competitors include insurance coverage up to \$100 for no extra charge. *Id.* at 2. The Postal Service asserts that because it charges for insurance coverage up to \$100, its competitors gain a competitive advantage, particularly with large volume mailers. *Id.* By offering automatic insurance coverage on most domestic

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<sup>2</sup> Automatic insurance coverage will not be offered with Priority Mail pieces sent using Merchandise Return Service, Priority Mail Open and Distribute, or Premium Forwarding Service. *Id.* at 3, n.3.

Priority Mail pieces, the Postal Service hopes to improve the competitiveness of Priority Mail. *Id.*

The Postal Service treats the proposed free insurance for Priority Mail as a price decrease for insurance. *Id.* at 5. Insurance is part of the domestic Ancillary Services product, which is part of the Special Services class. According to the Postal Service, the price decrease for insurance will cause the prices of the Special Services class as a whole to decrease by 0.511 percent.<sup>3</sup>

The Postal Service states that for the Special Services class, it has inflation-based price adjustment authority of 1.053 percent<sup>4</sup> and unused price adjustment authority of 2.114 percent.<sup>5</sup> Notice at 5. To the total price adjustment authority, the Postal Service proposes to add the additional 0.511 percent caused by the decrease in insurance prices. Response to CHIR No. 1 at 2. As proposed, the total unused rate authority for the Special Services class would increase to 3.678 percent. *Id.*

The Postal Service indicates that the proposed price adjustment furthers several of the objectives and factors listed in section 3622. It contends that the proposed change furthers the fourth objective because it is an example of pricing flexibility, furthers the fifth objective because it improves the competitiveness of a product and thereby helps ensure adequate revenues over the long run, and that it furthers the eighth objective by reasonably distinguishing between mailers based on their use of certain postage payment methods. Notice at 6. It also contends that the proposed

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<sup>3</sup> In its Notice, the Postal Service, using data drawn from 6 months of billing determinants, calculated that the price decrease would cause a decrease to the Special Services class of 0.452 percent. *Id.* at 4-5. The Commission asked the Postal Service to provide 12 months of transaction data from the Postal Service billing determinants, as Commission rules require, and to recalculate the price decrease for Special Services. Chairman's Information Request No. 1, May 16, 2013 (CHIR No. 1). The Postal Service recalculated a price decrease to the Special Service Class of 0.511 percent. Response to Chairman's Information Request No. 1 June 13, 2013, at 2 (Response to CHIR No. 1).

<sup>4</sup> This is based on the Consumer Price Index – All Urban Consumers, U.S. All Items (the “CUUR0000SA0” series). *Id.* at 3.

<sup>5</sup> See Docket No. R2013-1, Order No. 1541, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 16, 2012, at 72.

change furthers the first factor by increasing the value of Priority Mail to customers, and that it furthers the sixth factor by simplifying the rate structure. *Id.*

### III. PROCEDURAL HISTORY

On May 14, 2013, the Commission established Docket No. R2013-7, directed that the docket be noticed in the *Federal Register*, assigned a Public Representative, and established a deadline for filing comments.<sup>6</sup>

Two Chairman's Information Requests were issued.<sup>7</sup> The Postal Service filed written responses to both requests.<sup>8</sup>

### IV. COMMENTS

Comments were filed by David B. Popkin and the Public Representative.<sup>9</sup> The Public Representative fully supports the Postal Service's proposal. Public Representative Comments at 3. He asserts that the proposed change is consistent with the applicable statutory law and Commission regulations 39 U.S.C. § 3622 and 39 C.F.R. part 3010. *Id.* He agrees with the Postal Service that the price adjustment will help achieve the objectives and factors in 39 U.S.C. § 3622(b) and (c), and is consistent with 39 U.S.C. §§ 3626, 3627. The Public Representative expresses hope that the Postal Service will provide \$100 of automatic insurance coverage to all Priority Mail users in the near future. *Id.*

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<sup>6</sup> Order No. 1714, Notice and Order on Market Dominant Price Adjustment for Insurance, May 14, 2013.

<sup>7</sup> CHIR No. 1; Chairman's Information Request No. 2, June 6, 2013 (CHIR No. 2).

<sup>8</sup> Response to CHIR No. 1; Response of United States Postal Service to Chairman's Information Request No. 2, June 13, 2013 (Response to CHIR No. 2). The Postal Service also filed a Motion for Late Acceptance of Response to Chairman's Information Request No. 1, May 24, 2013. The motion is granted.

<sup>9</sup> Comments of David B. Popkin, May 29, 2013 (Popkin Comments); Public Representative Comments, May 30, 2013 (Public Representative Comments).

David B. Popkin makes two comments. He views the price for obtaining insurance coverage greater than \$100 on Priority Mail pieces as poorly designed. Popkin Comments at 3. Whereas, a Priority Mail Express piece can obtain insurance coverage from \$100.01 to \$200 for \$.90, to obtain the same amount of coverage for a Priority Mail piece will cost \$3.05. *Id.* Popkin contends that Priority Mail insurance rates should be phased in to avoid “rate shock” for Priority Mail users “going from no fee for \$100 coverage” to \$3.05 for coverage over \$100. *Id.* He also expresses concern that the Postal Service has not provided a rationale for why it is not offering automatic free insurance coverage for pieces sent using Merchandise Return Service, Priority Mail Open and Distribute, or Premium Forwarding Service.

## V. COMMISSION ANALYSIS

The Postal Service’s proposal raises two issues. The first issue is whether the proposal to offer insurance coverage free of charge on Priority Mail pieces is consistent with the requirements of title 39 and regulations promulgated thereunder. The second issue is whether it is appropriate to treat products that are ancillary to both market dominant and competitive products exclusively as market dominant. These issues are analyzed separately.

### A. Consistency with Title 39

The Postal Service explains how the proposal to offer up to \$100 of automatic free insurance coverage for Priority Mail pieces helps achieve the objectives of section 3622(b), and properly takes into account the factors of section 3622(c). Notice at 6. No commenter appears to oppose this proposal.

The Commission finds that the proposal to offer up to \$100 of free insurance on qualifying Priority Mail pieces is consistent with the objectives and factors of the Postal Accountability and Enhancement Act (PAEA). Notably, the proposal is intended to

make Priority Mail a more competitive product, which is consistent with the objective to “assure adequate revenues, including retained earnings, to maintain financial stability.” 39 U.S.C. § 3622(b)(5). It is also a demonstration of the Postal Service’s pricing flexibility. 39 U.S.C. § 3622(b)(4). By enhancing Priority Mail, the proposed change also increases the value of Priority Mail service. See 39 U.S.C. § 3622(c)(1). As the Postal Service has explained elsewhere, the adoption and use of barcode technology is encouraged because it will allow the Postal Service to automate the acceptance process, increase the visibility of mailings, and dynamically process and route pieces.<sup>10</sup>

The Postal Service asserts that the proposal to offer free insurance does not affect workshare discounts. Notice at 7. It also asserts that, apart from setting the amount of automatic insurance based on the mailer’s use of certain postage payment methods, the proposed change does not affect compliance with any preferred rate requirements. *Id.*

The Commission generally concurs with the Postal Service’s assertions. To be entitled to any free insurance coverage, the threshold requirement is that the Priority Mail piece has an IMpb or USPS retail tracking barcode. Priority Mail pieces without a barcode will not receive free insurance coverage. To receive \$100 (rather than \$50) of free insurance coverage, the mailer will need to use one of the qualifying payment methods.

Section 3622 does not preclude the Postal Service from discounting prices provided it does so in a manner that is consistent with title 39. The Postal Service indicates that it considered extending the proposal to all Priority Mail, but rejected it as “infeasible due in part to the resulting increase in administrative costs.” *Id.* at 3. It estimates that its administrative costs would increase by approximately \$77 million if \$100 of free automatic insurance coverage were offered to all Priority Mail customers.

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<sup>10</sup> See Docket No. R2013-6, Order No. 1743, Order Approving Technology Credit Promotion, June 10, 2013, at 8.

Response to CHIR No. 2, question 4. The cost difference is sufficient justification for not extending the proposal to all Priority Mail users.

The Commission finds that the proposal to offer free insurance coverage to Priority Mail users who use such technology is consistent with the requirements of title 39.

#### B. Treatment of Ancillary Products

Ancillary Services is a market dominant product included within the Special Services class. It consists primarily of services, e.g., insurance, collect on delivery, certified mail, and USPS Tracking, that are ancillary to the mailpiece. That is, they may be purchased only in connection with an item to be mailed. Ancillary Services are available for use with both market dominant and competitive products.

Under the PAEA, market dominant products may not subsidize competitive products. 39 U.S.C. § 3633(a). The instant proposal bundles up to \$100 of insurance coverage with Priority Mail, representing a rate reduction in insurance and generating unused rate authority. This result does not mean that an unlawful cross subsidy will occur. The proposal, however, highlights the need to examine more closely the propriety of classifying Ancillary Services as market dominant when those services are also available for competitive products.

The proper classification of Ancillary Services is an issue that needs to be examined more systematically. Because it affects Ancillary Services that are not before the Commission in this proceeding, the Commission may initiate a separate proceeding to enable interested persons to address the appropriate treatment of Ancillary Services.

#### V. MAIL CLASSIFICATION SCHEDULE

The Postal Service proposes two changes to the draft MCS. It proposes to add a footnote to the general insurance price table describing the free insurance that will be

provided for Priority Mail items. It also proposes to add identical language to the Priority Mail product description. The proposed MCS language uses a version of the general insurance price table that is no longer accurate. Moreover, the proposed additional language is not clear about the distinction between items that will automatically receive \$50 of free insurance coverage and items that will automatically receive \$100 of free insurance coverage. In the interests of accuracy and clarity, the Commission will modify the proposed language.

The Commission approves the MCS language, as modified by this Order. Changes in the draft MCS appear below the signature line of this Order.

#### VI. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the proposal to include, at no additional charge, \$50 or \$100 of insurance coverage (depending on the method of postage payment used) with qualifying Priority Mail pieces.
2. The total unused price adjustment authority for the Special Services class is increased to 3.678 percent.
3. The draft Mail Classification Schedule will be modified as shown in the Attachment to this Order.

By the Commission.

Ruth Ann Abrams  
Acting Secretary



**1500 Special Services**

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**1505 Ancillary Services**

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**1505.9 Insurance**

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**1505.9.2 Prices**

*General Insurance<sup>1,2</sup>*

(\$)		(\$)		(\$)
Merchandise coverage:				
0.01	to	50.00		1.95
50.01	to	100.00		2.45
100.01	to	200.00		3.05
200.01	to	300.00		5.10
300.01	to	400.00		6.25
400.01	to	500.00		7.40
500.01	to	600.00		8.55
600.01	to	5,000.00		8.55 plus 1.15 for each 100.00 or fraction thereof over 600.00

**Notes**

<sup>1</sup> Up to \$50.00 of General Insurance coverage is included at no additional cost in the price of Priority Mail pieces that bear an Intelligent Mail package barcode or retail tracking barcode. This does not apply to Priority Mail pieces sent using Merchandise Return Service, Priority Mail Open and Distribute, or Premium Forwarding Service.

<sup>2</sup> Up to \$100.00 of General Insurance coverage is included at no additional cost in the price of Priority Mail pieces that bear an Intelligent Mail package barcode and for which the mailer pays Commercial Plus prices or uses ePostage, Electronic Verification System, Hardcopy Manifest, or an approved Manifest Mailing System. This does not apply to Priority Mail pieces sent using Merchandise Return Service, Priority Mail Open and Distribute, or Premium Forwarding Service.

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**2000                    COMPETITIVE PRODUCT LIST**

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**2100                    Domestic Products**

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**2110                    Priority Mail**

**2110.1                Description**

- a. Priority Mail service provides expeditious handling and transportation.
- b. Any matter eligible for mailing may, at the option of the mailer, be mailed by Priority Mail service for expeditious handling and transportation.
- c. Priority Mail pieces are sealed against postal inspection and shall not be opened except as authorized by law.
- d. Priority Mail pieces that are undeliverable-as-addressed are entitled to be forwarded or returned to the sender without additional charge.
- e. Up to \$50.00 of General Insurance coverage is included at no additional cost in the price of Priority Mail pieces that bear an Intelligent Mail package barcode or retail tracking barcode. This does not apply to Priority Mail pieces sent using Merchandise Return Service, Priority Mail Open and Distribute, or Premium Forwarding Service.
- f. Up to \$100.00 of General Insurance coverage is included at no additional cost in the price of Priority Mail pieces that bear an Intelligent Mail package barcode and for which the mailer pays Commercial Plus prices or uses ePostage, Electronic Verification System, Hardcopy Manifest, or an approved Manifest Mailing System. This does not apply to Priority Mail pieces sent using Merchandise Return Service, Priority Mail Open and Distribute, or Premium Forwarding Service.